

point and the 11 other jurors did not know what she was talking about. He said we are only to consider evidence we hear in the court room and base our verdict on that information. Then the State Attorney, Dennis Stroff gave his opening statement. He basically told us step by step all he hoped evidence would show. As the judge said, this is like a roadmap of the case. He spoke for about 30 minutes. Of course everyone in the court room was constantly watching the jurors & I guess we were checking out the people. The victims family were mostly on the right side of the court room in the 1st row. His parents were next to the wall, the look on the

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Mother's face was pure grief. My heart went out to her, but she seemed immune to a lot of what was going on around her. I do understand some of her grief & I know this trial will be so very hard on her & also the father. Some time has passed but they now have to live this nightmare all over again.

We were given pencils & notepads to take notes if we wished. I liked the idea & I wrote down who testified & for how long, made notes of what they said and wrote each exhibit # and what it was. In the morning we heard testimony from 3 police officers who were 1st on the scene. We went to lunch at 11:40 till 1:00. During lunch some of us went to Hardier & got to know each other a little bit.

We were all back by 11:00 but Counsel was with the judge going over some rules of law. The bailiff said this could happen alot during the trial. It was 1:15 when we went back in. The 1st witness was an employee who found Donovan Schaffer dead. He was so nervous I felt for him. He was calling the police when another employee Sam Harder arrived. He said to Sam don't go in the storage room so right away Sam went & looked. It was established that in the police photo the 2 vehicles parked there were his & Donovan's. The next witness was a detective who said he spent about 13 hrs taking photos & other evidence. When we went in after lunch & I saw the projector & big screen I knew we would be seeing areas of the business & the victim. As I

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expected the photos were graphic and of course in color. Of course the hardest pictures to view were of the victim. He had been left sitting on a pallet w/ his hands tied behind his back w/ rope that was from the shop. A tool box on the wall from the victim showed what could have been used to cut the rope and also showed more rope. The victims legs were crossed indian style & his body went forward and his head was on the floor in an enormous pool of blood. Because he was in this position we were not able to see his face. I think it helped me emotionally not to have seen his face, although in the last 3 days, several times I have seen the picture in my mind.

I was concerned how the family was handling all this so I looked over a few times. The parents had their heads down and didn't look. The rest of the family of course were wiping their eyes. The accused Mr. Rhines also did not look at the photos of the victim. He is sitting directly in front of me. I am in the front row in the middle. The last witness was a detective who had physical evidence which was passed around. They were tennis shoes of the 2 employees who found the victim. The other was a red cape found on the floor between the bathroom and the office. I was the 5th juror to look at the shoes. The 4 before me did not even look at

the bottoms of the shoes to note the pattern. A lot of importance was placed on blooded footprints left at the scene. Later if we need we can compare the prints w/ the shoes but I imagine experts at the FBI lab will have made their own conclusions. It was now 2:30 and I was surprised the judge adjourned for the day. After just having seen profound pictures of the victim I guess it was a good place to stop. Since we aren't to discuss the case verbally, it would have been hard to have taken a break and not shown some emotion.

I went straight home and realized how tense I must have been as I had a terrible headache and was very tired from my lack of sleep. In

all honesty I feel I am handling this experience very well. I am even eager to get back in the court room and see what unfolds. I am trying to pay close attention and keep an open mind. I may not be doing the right thing but at this point I am trying to play devil's advocate. I will do as the judge says and try not to make a decision until all the evidence has been given.

There are 8 men & 8 women on the jury. Like one man said, if the paper is right 1 man & 3 women will get the boot. Only 12 will vote & the journal had said 7 men & 5 women. I feel I will vote but I'll have to wait & see. I'm glad the 1st day is over & I think

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The rest of the trial will be interesting. So far the jurors all seem very nice & I'm sure after this experience for many years to come we will remember each other.

Day 2 Jan. 19, 1993

A lot of ground was covered today. I think only a few more days and the jury can start deliberations. Around 17 people were questioned today. The morning started w/ a pathologist testifying about how the victim died. The first photo was upsetting. It was of the deceased victim waist up. Now I have seen his face. Although it was hard; from what some of the other jurors said, I was in a lot more control than they. Who knows with me the emotion could come out next month or tomorrow.

I don't think I will try and make notes as to the evidence given today, just say that it was a long day. I slept only 3 hrs last night. I just worry I guess that I'll over sleep or something. My back hurt, feet too hot ect. The only real damaging evidence came today by a 16 yr. old girl. In my court notes I wrote down much of what she said. I am anxious to hear what Sam Harder has to say. I'm trying to sort out the evidence & feel that I have. I have not made a decision yet as I still have my own questions about certain things. They may be answered in the next day or so. My butt was sure sore by 2:00 P.M.

I don't think the prosecution has much more to present. I would think Wed would wrap it up for them. The defense for Rhine has been very quiet. I'm sure they have witnesses but if they don't, the jury could start deliberations by Friday. It was a long day even though we were released by 4:00 P.M. The jurors continue to get to know each other & are getting along pretty well. So far defense has very briefly cross examined maybe 4 people. I keep wondering what their game plan is. They reserved the right to an opening statement. I guess I'll know soon.

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Day 3. Jan. 20, 1993

Wow! What a day. I cannot seem to think of anything but the case. Today was Climatic & anti-Climatic. Sam Harder for whatever reason did not testify in this trial. I guess he wasn't really necessary to the case but I was very curious to see & hear him. As far as I'm concerned he was an accessory to burglary (^{before and} after the fact) however; I feel since he was now married to Heather (7-92) he may have been ^{given} immunity from prosecution in exchange for his wife Heather's testimony. Her testimony ^{of yesterday} ~~today~~ was very damaging but the case was blown wide open today with a cassette tape we heard given to a detective and someone from the sheriff's office in Wash. last June

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of Charles Rhine's answers to questioning by these 2 men. He was definitely given his rights and Miranda warning. However, defense strongly made known on court record that the tape of his admission of all that pertained to the murder of Donovan S. on this tape be not admissible as evidence. This was argued in the judges chamber between Council and Judge Korenkamp over ruled it and allowed the tapes as evidence. If this case is taken to a higher court I feel this tape will be their grounds for dismissal or whatever they make be requesting. I was very moved at one point

during Rhine's admission tape
where from the time Donovan
first came in and severely startled
Rhine & when he first stabbed
him to his statement of what
Donovan said to him. I made
the mistake of looking at one
particular relative of Donovan,
(I think maybe an older sister)
she & I looked at each other
at the same time & the emotion
on my face & the tears that came
to my eyes I think caused her
to really cry at this point. This
may be hard for people to under-
stand but when I was in her
shoes 17 yrs. ago and watching
the jurors I too looked for some
sign w/ the jurors that showed

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me that, at least a little feeling
and compassion for my pain &
my family pain was within
them. Up to this time she & I
had alot of eye contact. She of
course grieving and angry and
looking at the jurors with a look
of some hostility like "we better
make the right decision." Whether
it was just me & my thinking I
don't know but I didn't see the
angry look directed at me any more.
As a juror I was trying very hard
to be completely open minded, Care-
fully listening to all evidence &
trying not to come to any con-
clusions of guilt or innocence. After
hearing R. himself describe where

and how the murder took place
in his own words on tape & remem-
bering the testimony which showed
the order of events as well; I had
no choice but to consciously
say to myself, there is no doubt
now that Rhine did without a
doubt murder Donovan Schaffer.
This is when I looked at Donovan
family w/ pain on my face. Until
that time I don't believe I showed
a lot of emotion. Later after the
tapes were played there was a few
more witnesses concerning the evidence
that was obtained as a result of
Rhine telling the police on tape
where to find them. I got the
feeling Rhine thought they had

already found them and maybe
he thought they were testing his
memory or something. The defense
cross-examined the photographer &
evidence man (1 person) about how he
knew where to look. The officer
was trying not to say from
so & so as a result of the tape
telling the police where to look.
Defense is still making it known
for the record that this evidence
was only obtained from the tape
they feel should not be accepted
as evidence. Down the road it
will be interesting to see if in fact
a higher Court rules in favor or against
Judge Korenkamp's decision of using the
tape as evidence. I was surprised.

when Mr. Huff announced that the state rests. The judge ordered a 10 min. recess. As we left the room I thought well now we will see what the defense will do.

When we returned to the courtroom I was stunned when the Judge said the state rests & the defense rests. At this time I would like the jury to return at 9:00 A.M. on Friday. Tomorrow myself and the attorney will be involved in some legal matters.

When you come Fri you will hear closing arguments and begin deliberations. Please bring w/ you on Friday ^a change of clothing, toilet articles ect. as you may

have to be sequestered Friday evening if deliberations aren't achieved by too late. So - - - now we wait till Fri. to find out which 12 deliberate & which 4 go home. I would be interested in that process but we'll see. In this trial I felt I had 2 hurdles to cross. I passed the 1st one now I have to see if I can get over the second one. At this time I am starting to get just a little queasy in the stomach about having to make the decision of life in prison or the death penalty. I honestly do not know at this time how I will vote on that

issue. I need to discuss my thoughts & feeling w/ the other 11 people who have all heard what I have. As far as all the charges I don't even know as the 2 counts of murder will have specific rules & actions based on the law that applies to the type of murder charge. I do know he is guilty of murder but according to the law I don't know to what degree. I'm leaning towards life in prison. If I do vote as a juror Fri or Sat. when it's all said & done it will be interesting to read this journal and see if, what I thought I would do in a given situation, is what I actually do. See today

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Today is Fri. Boy was I
wrong! The woman I thought
was Donovan's mother was not.
His mother was the lady I
earlier referred as possibly his
sister.

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is Wed 1/24/93 Friday 1-22-93 is not
a reality for me yet & in all
honesty I do not know how the
deliberating & discussion process will
affect me.

For whatever reason - I guess
because I am a mother - I was
very aware of Mrs. Schaffer on the 1st
day of the trial. She was not hard
to spot as she appeared to be the
most grieved looking person there.

During photos of her son taken at
the morgue, she put her head
down & did not look as did her
husband. It was a very painful
ordeal for her and she was not
there for the rest of this trial. I
don't know if she will be there Fri.

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I kept thinking to myself if I could stand being there myself if it were my son who was murdered. The word nightmare does not seem adequate. On the other hand I looked to see if maybe Charles Rhine's mother was in the courtroom. I don't think so. That too would have been extremely difficult.

We were allowed to take notes during the trial. They definitely helped me to reinforce in my mind who the witnesses were & what was said. I hope we will be allowed to keep our notes. I will stop writing in this Journal now and will next write in it when my job as a juror is done.

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When the jury filled in this morning I noticed Charles Rhines was watching all the jurors come in & that he looked somewhat cheerful & he sort of smiled. I looked at him as I came in & he looked at me and it just seemed funny. It wasn't the 1st time he watched us come in but he usually had a sort of straight & unemotional look on his face.

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1st. Judge Koverkamp read the charges & the law as defined by the law and explained the rules. We would not be allowed to leave.

Fri 1-22-93 Day 4

9:00 A.M. Court started w/ the State giving its closing argument.

Mr. Groff reviewed the evidence & reviewed the way the killing of Donovan started & how the final stab in the neck was meant to finish the victim off. He wanted the jury to return a verdict of murder in the 1st degree and guilty of 1st degree burglary.

The defense described how Rhines was petrified w/ Donovan surprising him while he was robbing Dig 'Em'. Out of fear he stabbed & killed Donovan. They contend that it was not premeditated murder. From the onset they said they wanted to speak to us jurors w/ candor. They said we all

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know that Charles Rhine killed Donovan Schaffer but that Rhine only meant to rob Big 'Em' not kill any one.

Then the judge said at this time he would read the names of the four alternate jurors. He thanked them and said after their name was read they should go ahead & leave.

The remaining 12 were ~~then~~ sent to deliberate. The smokers wanted 1 good cigarette before starting. The group was all somewhat shocked but we soon accepted the responsibility. While we were trying to decide how to pick a Foreman [redacted] said we maybe should ask who wants the job. One man said he had alot of time in a courtroom & [redacted] said well --- [redacted] said how about we

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put our names in a hat and whoever gets
picked does it. I said I don't want the
job and someone else said they didn't
either. So we said whoever wants to
put your name in. One woman & 3 or 4 men
put their names in. [REDACTED] - [REDACTED]
[REDACTED] was chosen. He did a wonderful
job. The bailiff then brought in all the
evidence in for us to have. [REDACTED] said
are we all agreed that Rhine killed
Donovan Schaffer and we all said yes.
Then he said ok then let's read
again the definition for 1st degree
murder & 2nd degree murder. I said
before we get down to brass tacks
couldn't we just vent some feelings &
discuss some of the things we heard &
maybe get some questions answered. They
all agreed it was a good idea since we
had all been silent & we needed to

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talk about this trial. Well it got pretty wild. There was 4 or 5 conversations going on all at once. I said we have plenty of time so let's take turns speaking because w/ all these conversations going on I couldn't catch what all was being said. Eventually we got back to discussing whether we thought Rhina should be charged w/ 1st or 2nd degree murder. It seemed everyone was in agreement that it was murder 1 but me. I said my feeling had always been that premeditated murder was the planning ahead of time of how you were going to kill someone & then doing it. Everyone said yes I am we did too but the law reads that in a burglary if the perpetrator makes a conscious decision to end a life it is 1st degree. 2nd degree would be if the perpetrator is

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fear struck someone like over the head
to keep them from seeing them &
left them & as a result that person
died, it is 2nd degree as they didn't
intend that the person should die.

We decided to have lunch & then
vote. Lunch was over so we got back to
our decision. [REDACTED] asked me if I was
OK to vote & I said yes, I had wanted
some time for our decision to sink in
as we all were so terribly aware of how
serious the charge was. Our decision
was going to mean that Charles Rhine
was never going to ever be a free man.
Donovan Schaffer will never be a free
man either. We can only hope & pray
that he is a free (& happy) spirit. OK!
Now we were ready to vote. We decided
we would vote w/ a show of hands. 1st degree
Burglary. All 12 hands up. Murder in

the 1st degree. All hands go up. Then
[redacted] filled out the form to check in
the appropriate charges. After he
did this & signed his name, passed
the form & all of the jurors checked
it to see it was as agreed. I have
to say this is a special group of people.

Many said they wanted everyone's names so
we could keep in touch w/ each other. Many
felt it could get emotionally hard at times in the future.

When we went into the court room it
was more packed than ever. It seemed
like there was a lot of tension there.

Prior to coming in Judge Korenkamp
came to the deliberation room and
told us that he would not use our
names at roll call but assigned us each
a number. He also said that the defense

could ask for each juror to say
yes or no to the murder indictment.

[REDACTED] gave the bailiff the
forms that said what our decision was.

He gave it to the judge who gave
it (after looking at it himself of course) to
the woman who swore the witnesses
in. When she read the verdict

I was surprised Rhine was not
asked to stand up. The family
at first stiffened & clutched at each
other & there was a large sigh
from most of Donovan's family. Then
Schaffer was fighting tears & at this
point so was I. The defense requested,
as the judge told us he might, that
each juror say yes in response to
agreement of the verdict. Again it was
juror #1 let. I noticed some of the

jurors voices were just a little shaky.
The judge then told us that he was
going to release us for the day and we
were to come back on Monday at 9:00 at
which time both counsel would have
statements and the judge would give
us more rules of law or something. I am
not sure just what to expect. This
procedure is what they call phase II.
The judge said after this the jury
would then deliberate as to Rhine
punishment: Life in Prison (in S.D. this
means life until a natural death, no
parol.) or a death sentence. Had we
found Rhine guilty of murder in the
second degree the judge would have
passed sentence. The judge asked the
jury not to think & come to a decision
over the weekend to wait until we
have heard what is to be said on Mon. 1/25/93

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We still were told not to discuss,
read newspapers or listen to news
concerning this case. We then left
the courtroom. [REDACTED] immediately
grabbed her coat and I saw she
was shaking. I put my hand on
her shoulder and said [REDACTED] take
a minute, there's no rush you don't need
to be driving now. My heart started
pounding as we left the courtroom &
now I too was shaking & wanted to cry
but tried to hold back. [REDACTED] asked
if I was OK. I said I will be it was
just so emotional. Dee also had tears
in her eyes. By now all the jurors
were huddled together & we were all
trying to support one another. My
feelings were so confused at this time

and I remember thinking what is wrong w/ me. My legs started shaking and I had to sit down. Some of the jurors started asking if there was a side door we could go out as they were concerned about maybe some people's reaction or the news media. ^{The Bailiff} He told us of a side door we could go out but as far as news media they shouldn't bother us. We decided to walk out as a group & exit the doors from the old section of the courtroom as a lot of us were parked out front. We should have waited a little longer because my legs started shaking again as we started down the 3 flights of stairs. We got to the parking lot & went our own ways. I got in my car & by the time I got to the parking lot I began to sob & tears were falling.

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I am still asking myself why I am feeling all this emotion. By the time I got to Omaha st. the sobbing stopped and I just felt drained. I got home to an empty house & was disappointed there was no one there to give me a hug.

It was almost 2:45. I waited until 2:47 only to find out Joe was not there at school.

I knew he had meetings outside the school today so I wasn't surprised.

Soon after my friend [REDACTED] called.

It was good to have someone to talk to. Then it was 3:30 & still

no [REDACTED] so I called [REDACTED] & asked

for [REDACTED] or [REDACTED]. [REDACTED] came to the

phone & said but Joe would be home

soon. I said no they could stay just tell

[REDACTED] I'm home & go back on Monday. He said

OK I'll tell him but they still would be home soon.

I then passed for awhile & then felt I
needed to hear a familiar voice so I
called [REDACTED] at work. I'm glad I did
because I had been on her mind and
she felt better talking to me. I don't
even remember what I said to her but
then felt better. By now I figured
[REDACTED] would be home so I quickly
gave her a call to let her know what
was happening. Now [REDACTED] was home
and I got the hug I needed. It is
so nice to have such a loving husband.
I see the destruction the Schaffer family
has suffered and I remember how at
one time my family too suffered tragedy
and I guess although I feel for the
Schaffers I am so thankful we aren't
in that kind of situation now. My past

experience cause me to be so very
thankful for all I have now. As I
am writing in this journal it is Fri.
Jan. 22, 1993 11:00 P. M. and earlier
this evening it came to me what all
this emotion I was feeling was all
about. Since the trial started on Jan.
15th I have gone into the courtroom
with a determination to as a citizen
do the best job I could in a court
proven I believe is the best system in
the world. Mine & everyone's rights are
protected by this judicial process. I
felt it was a honor to serve but the
gravity of this case was at times over-
whelming. Through it all I was de-
termined to be a fair and impartial
juror. The trial itself was only 3 days
and never past 4:00 but God it seemed like

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three weeks. We had to absorb so much information & to make matters worse we were not allowed to talk about anything we heard in the courtroom. Not a day in Court went by that some emotional & disturbing thing did not happen. All this time we jeerily fought back our emotions & tears. Twice I did tear up but quickly got control. So - today seeing Donovan Schaffers family let out their emotional sigh of relief I held off until out of the courtroom and then my emotions - held back so long finally came out like a sigh of relief only I guess a little stronger. I think the impact of this major responsibility the major decision finally hit home & reality set in. It was very heavy & unsettling. I am OK now. Monday will be here

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soon and we'll see what happens. I
won't even venture now to say how I
think I'll vote. I guess a lot may
depend on what we are told and what
rules & guidelines we are to go by. I am
disappointed we can't keep our notes
we make during the trial and I
intend to write in my own words & memories
what happened that sad night of March 8, 1992.
No one should die the way Donna did!

Monday - Jan. 25, 1993

Today is Jan ^{1/25/93} 2:30 P.M. I finally have
some time to finish this Journal.

I was not looking forward to
going to court Monday. When I got
there we didn't wait long before we
were called into the court room. A lot
of people were there. The day started
with Judge Koenkamp reading off
numbers for jury roll call. He then
read to the jurors several pages of
instruction which defined terms and
explained all we were to deliberate on.

The State was asking us to decide
on 3 aggravating circumstances. If we
found the defendant guilty of just 1 of
the three circumstances we could
decide on the death penalty. In order
to impose the death penalty all 12

jurors had to be in agreement. In case of a hung jury, life in prison would be given. The judge asked that we still not try and decide which penalty to give until we listened to all that would be said in the courtroom during what was being called Phasent of the trial and also he asked that during deliberations we keep an open mind to what each other had to say. Mr. Groff started with his closing argument. Again I felt that he had alot of eye contact w/me. Once in awhile it bothered me but I think I probably wasn't able to keep alot of expression out of my face & maybe he thought I was giving away my thoughts by my facial expression. I guess I'll never know why. He went through the 3 aggravated circumstances with us.

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He basically talked about the senselessness of Donovan's death and how he felt because he was a witness to the burglary. He finally said he hoped that our decision would be a death sentence. Then the defense called Rhine's oldest sister to the witness stand. She told of her brother's low marks at school and said he had some problems w/ relationships. She said her mother was in poor health after a breakdown 5 yrs ago after her husband's death, followed by a heart attack + later a stroke. She said growing up her family had a normal life but that Charles had problems. There were 4 children 2 boys + 2 girls. All but Charles had college degrees. He went into the military after dropping out of high school at the age of 17. His father

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Thought the military might help. He
got a GED in the military. She said
over the years Charles had problems but
never even thought he would end up
on trial for murder. The next witness
was Charles other sister who flew from
Australia to see him and testify. She
was closest in age to Charles. She
basically said they were fairly close. She
was the family member he confided in
about being homosexual. The last time
she saw Charles was in 1990 when she
had a disagreement w/ him. She was
asked if she loved her brother and she
said yes. He's my baby brother & all though
we had our misunderstandings she loved
him & always would. At this time Rhine
wiped his eyes. I wondered if he thought
she no longer loved him & was maybe

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do not need to hearing her verbally
that she loved him. She said if he
got life in prison she could still write
him & visit him whenever possible. Then
Mrs. Peggy Schaffer, Donovan's mother, took
the stand. Through tears & a choked
voice she read a statement about her
son & how kind & good he was. About
his fiancée Sheila Pora and their
dreams of marriage this May. She said
her dream & his were gone now & their
lives shattered. I was on an emotional
roller coaster. At some point I remember
feeling like I just wanted to really have
a crying session. I don't remember who
was talking but I lost it for awhile.
I wiped my eyes & tried very hard to
get my composure. I cried a few days

later in the newspaper of the various
people in Texas that morning and
the article mentioned a juror cried.
I haven't talked to the other jurors
to ask if anyone else cried but I know
I did. Then the defense attorneys all
had a statement. They pleaded for
mercy & agreed that the killing
of Donovan was horrible but that was
the removing Rhine from humanity
be the only way justice could be
served. The last of the 3 Mr. Butler
talked. During his closing argument
he told us a little about himself
& that last summer when Judge
Korenkamp asked him to represent
Rhine & that the state was asking
for the death penalty, he said he was

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concerned because even though he was
a lawyer for many years he did not have
a lot of experience with a murder charge.
He had on large pieces of card board
a scripture from Exodus quoting the verses
about an eye for an eye etc. He called it
Mosaic law I believe. The next cardboard had
a scripture from the new Testament concerning
turning the other cheek. I don't remember
what the 3rd scripture was but he somehow
tried to tie in Jesus Christ in that he
was tried & given a death sentence. The
4th cardboard was a quote from Abraham
Lincoln concerning a soldier who killed
a soldier & who they were going to punish
w/ death. Lincoln's quote was against death
as a punishment. During his statement
like Groff he seemed to zero in on me
with eye contact. I think he thought

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maybe I was being receptive to his
remark. In all honesty he did get
to me somewhat. I remember thinking
well maybe I will go for life in prison.
When I thought that, I felt somewhat
relieved. Mr. Groff said Lincoln also said
what I don't remember. He also said he
could not believe Jesus Christ & Rhine
were compared. He was appalled & said
I won't even go into it further. At this
time Rhine's 2 sisters were in the
courtroom. Groff reminded me of Donovan's
brutal death & as he described the events
& stabbings that took place March 8th I
watched Rhine's 2 sisters. The older one
was clearly upset & would at times bang
her head. The younger sister was at times
putting her hands over her face & it was

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very hard on them hearing in detail
how their brother took a life. He again
asked for the death penalty. The judge
then said we were to deliberate our verdict.
Earlier that day we were told we would
be taken by Van to Howard Johnsons.
We had all been given a room key.
When we got to Ho Jo's we were all so
exhausted. It was late in the afternoon.
We decided to have dinner & then we
went to our conference room where all
the evidence & tapes & instructions from
the judge. We went over each of the
3 aggravated circumstances. We all
agreed on them. Before we quit for the
night we discussed many things. We
seemed to all wonder what life in
prison would be like. None of us

were for sure but we thought Rhine
would be able to have many privileges
like TV, Radio, reading material, access
to a gym for sports & weight lifting,
would be able to socialize w/ the prison
population etc. Someone even thought
that lifers were not required to work
as they were not being rehabilitated.
We talked about all the violence in
our country & that maybe it was time
for us to say enough of people
getting away with 1st degree murder.
We were so tired & we decided to
get a good night's sleep & start the
next day getting up at 8:00. It was
11:30 then. I wanted to be alone. & so
I went to my room. I took a nice
bath & tried to sort out in my mind.

how I felt. By 12:00 I was ready to give my mind a break. I took my aspirin P.M. & got in bed to read. After reading the same sentences over & over as I couldn't seem to concentrate I told myself to let the trial go & finally I was able to read & able to get to sleep. It was 1:00 A.M. then when I shut off my light. When I woke it was 7:00 & I decided to get up. I went to get coffee around 8:00. A few persons were already up & ready for breakfast. I found out some were either up very late thinking or up early thinking. We were back deliberating by 10:00. One of the jurors had written a letter to the judge stating that we knew what a death sentence was but we didn't know what life in prison was. We asked about what I wrote earlier about what

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privilege Rhine would have. We all agreed it was a good question & all 12 jurors signed it. We asked the bailiff to ask the judge. Over the phone the judge told the bailiff it was too long - that he would send a runner for it and that all the lawyers would see our request. This was at 11:00. We had our answer at noon. The judge said all we could have was our instructions & the evidence to base our decision on. From then we had to share our thoughts on the death penalty versus life in prison. I guess it was the night before we took a vote to see where we stood. It was agreed the voting wouldn't count. It was 8 for death & 4 for life. We decided to listen to Rhine's taped confession again. We stopped the tape at various times & discussed things. The whole

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times we were in deliberation was very painful. The enormity of our decision weighed very heavily on us. We did feel that life in prison was what we all had talked about & with all those privileges it didn't seem like justice for Donovan. We left the picture of Donovan out & none of us could shake the feeling that Donovan needed for us to remember all the rights & dreams he had that Rhine so selfishly took from him. We all agreed that if it were us in that picture we would want justice. We all agreed too that what Donovan's family wanted or what Rhine's family wanted was irrelevant & that justice for Donovan was where it was at. We decided to take another vote. When [REDACTED] was reading each vote aloud &

another juror was making by the time 10 deaths were read my heart was pounding. at 12 we were all stunned & looking at one another. Judy on my right said Fran I need a hug. It was very emotional. She wiped her eye & said I feel such a relief like a big weight has been lifted. We all agreed. One juror said if I ever feel bad about our decision I hope I can come look at these pictures of Donovan. We were all at peace in our hearts but we talked about what was to come in the court room. We decided on a date to all get together again and we talked about how hard it was after the 1st degree murder charge was read. We talked about going into the courtroom.

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strong + leaning strong. We agreed after
leaving the courtroom we could cry or
whatever but not until then. We also
felt we would be pulled & readied
ourselves for that. We also agreed
that none of us would give statements
to the press as a few words could
not begin to describe the magnitude
of our experience & also that it was a
personal thing between us. We decided
to eat before we told the bailiff.
We missed lunch & it was now 3:30.
After we ate it was 4:45. We did not
want to be in the courtroom before the
5:30 news as we didn't want anyone to
think we hurried to make the news.
I told the others that during dinner
I thought about a song we could keep
in our heads to help us get through

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The Courtroom. It was "waited we stand
divided we fall." etc. One of the guys said he
was thinking of the same song. We filled out
the forms & we all checked it over then let
the bailiff know. We packed & went to the
court house. The bailiff said the press was
everywhere so we were taken under the court
house where police cars are kept. Lots of Sheriff's
Dept. people were there. We were taken to a new
room & soon the judge came in & talked to us about
the press & our rights to speak or not to speak to them
but if we did to respect the other jurors & speak
for ourselves. He said deputies would be escorting us
to our cars. I was the only one without a car & the judge
said for me to call [redacted] then as we would be going in soon.
I did call for but it was still 30 min. before we got in.
Talk about nervous. We smokers were all chain
smoking. A few of the jurors during deliberations took up
smoking again. The pressure of this trial was so great.
Finally it was time to go in. We were in a whole new
courtroom & it was so small for spectators. I saw Bonner's
family & fiance but I didn't see Rhina's sisters.

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Rhine was holding his hands prayer like. He was very nervous. The decision was given to the judge & he softly said the jury has imposed death. Donovan's mother smiled as did Sheila Pons & I guess most of the Schaffer family. Rhine put his head on his hands on the table. The judge asked the defense if he wanted the jury polled & as we expected he did. We all sounded fine. My heart was still pounding & the whole court scene seemed unreal. Mr. Hoff then dropped charges. I found out from a juror the day that it was for a habitual offender. We left the courtroom and we were checking each other out to see if we were ok. We didn't have much time as the judge told us we would be released & the courtroom held for 5 or 10 minutes so we could leave. I was so numb now & an officer said he was ready to take me down to [redacted]. We went downstairs & he didn't have a key. We went back upstairs & then down another way & the bailiff said we better hurry so we didn't run into the defendant. That's all I would have needed. When I got in the car & we got out of the parking lot [redacted] asked me what the verdict

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was. I told him death. I was so numb.
Joe asked if I wanted to go have a drink
somewhere. I quietly said no I don't want
to see anyone I knew. Not much was said
going home. At home I asked [redacted] to call
[redacted] family & tell them I was home & OK
but I just couldn't talk to anyone. I was
just in a fog & like I said numb. I explained
to [redacted] about not wanting to talk to the press.
The newspaper was out & Joe started reading
to me parts about Rhine's previous prison
sentences & I finally let some emotion out
& put my arms around him & cried a little
& said boy we did do the right thing. We
knew nothing about his past. I took a bath
and felt somewhat alone. The feeling of
being outside of normal life was with me for a
few days. Each day I have felt more normal.
I feel in my heart & mind that justice
was served. I now end writing in this
journal.

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This is my story of what happened concerning the murder of Donovan Schaffer and the trial of Charles Rhine. Three weeks prior to March 8, 1992, Rhine was fired from Dig "E" Donoughs. A 16yr. old boy, Sam Harder, was also employed there and continued to be after Rhine was fired. Sam Harder & Charles Rhine were room mates in a 4 plex apartment. Rhine is a homosexual. One of his previous room-mates & lovers did testify at the trial. His testimony is not relevant. What I am going to write about is mainly what happened not the details of clues of evidence and the witnesses who helped put the pieces of evidence together. It was all leading to Rhine as Donovan's murderer. Going

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back to Sam. Rhinis had a certain influence over Harder. Rhinis is 36 yr. old. I don't believe the sexual relationship they had was a two sided love story. Rhinis loved or loved Sam Harder while I think Sam was partly involved w/ Rhinis as a bisexual man and I feel he was pressured by Rhinis as well. Sam is now married to a woman named Heather. Rhinis at some time prior to being fired, was given a key by his employer Digo to give to Sam who was a baker who worked the 10:00A to 6:00 A.M shift. Rhinis had a key made for himself. The night before the robbery a police officer was at Dig 'Em' at 3:00 A.M. to do paper work. Sam was in back baking & Charles waited on the officer & told the officer not to tell Digo he

was there since he had been fired
and wasn't suppose to be there. Charles
said he was just helping Sam. The
officer noted that Rhines was wearing
a buck knife in a leather sheath on
his hip. Rhines made a statement
in Seattle Wash. to a P.C. Detective
& a Deputy from the Sheriff's office around 6-11-92.
It was taped recorded with Rhines
permission. Date-time and place were
given on the tape names of officers and
most importantly Rhines was told of
his rights was given the Miranda rights
he clearly answered yes he understood etc.
In Rhines own words this is his story.
A day or two prior to March 8, 1992
a plan was thought up to burglarize
Big 'E's' on a Sunday evening. The place
should have been empty from 7:00 to 10:00 P.M.

On Sundays the office door would be locked and behind that door on the floor or on a desk would be the money bags from Fri, Sat & Sun. ready to go to the bank Mon. morning. A slot fairly high on the door was the opening where the money was thrown through. When the time came on Sunday 3-8-92 Sam Harder drove Charles to Big 'Er' knowing he was to rob the place. Charles was dropped off a couple of blocks away. Sam went home to wait for Charles to call him when he was done. Charles had a gym type bag with him & inside the bag was a small torch to use on the safe in the office if he couldn't get in the safe. He did not have to use the torch. He had on

leather gloves. He used his key to get in. ^{for thing he did was put on same plastic gloves he used when baking}
The ~~last~~ thing he did was unplug an over-
head light which stayed on 24 hrs. With
that light on 24 hrs. a day you could see
inside from the door all the way back to
the office. After unplugging the overhead the
the busines was totally dark. Charles
used a small flashlight to see with. He
used his knife & jimmied the office door.
While in the office he heard the bolt
on the door click. He froze and was
scarred. He held his knife to his
side blade up. Donovan walked back
and stopped right outside the office
where the control box for the lights
were. He turned the lights on and saw
Charles. He said what are you doing
here. Charles then stabbed him in the
right abdomen. Donovan tried to stop



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the knife of his hand & his throat had a large X cut on it. Donovan immediately went down screaming. Charlie, Charlie he was screaming. Charles then stabbed him in the left side of his back punching Donovan's lung. Now the screaming stopped. Charles said he then helped Donovan up and helped him to the storage room located up by the door some 50 feet away. He said Donovan seemed resigned at this time like he knew his time to die had come. Inside the ~~the~~ storage room Charles sat Donovan down with his legs crossed indian style on the edge of a wooden crate a few inches off the floor. There was a tool box close by next to the wall and a supply

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of rope ^{part} The rope there was used
to tie Donovan hands behind his back.
These ropes left furrows + rope burns
on his wrist which meant Donovan tried
to get them off. Donovan asked Charles
to help him; to call an ambulance.

Charles said he thought, go right! I'm
going to call you an ambulance! Donovan
told Charles if he let him go he
promised he wouldn't tell anyone.

Charles said leave no witnesses. He
pushed Donovan's head down and
shoved the knife in at the base
of the skull above the 1st vertebrae
wanting to hit the medulla area of
the brain which would stop all
body functions. When the cops asked
him what he thought ~~that~~ ^{he} he said

"It was the 'coup de grace'." I still shudder when I think of this phrase for it means "the final thrust or the final blow. This last act is what got Charles Rhines Murder in the 1st. degree. The 1st & maybe 2nd. stab wound could have fallen under 2nd. degree murder charge where in the act of a robbery you panick & strike out at someone so you can get away. They as a result die but you didn't intend to kill them. When Charles took the time to move Donovan out of a lighted area & did the final stab in the neck & brain he had designed in his mind to do this knowing full well this last stab would result in death. He

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premeditated the final blow. The
"coup de grâce". Charles then after
what he says was a little while
before Donovan died proceeded to
get all the money he came for. He
called Sam to come get him. Sam
came & they went back to the apart-
ment & counted the money (around \$1700 cash)
Rhine said this \$1700 cost Donovan his
life. Sam was very upset but Rhine
told him what's done is done. He
said too bad it wasn't Regi.

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1 STATE OF SOUTH DAKOTA)
2 COUNTY OF PENNINGTON)

IN CIRCUIT COURT
SEVENTH JUDICIAL CIRCUIT

3
4 STATE OF SOUTH DAKOTA,

5 Plaintiff,

6 v.

JURY TRIAL

7 CHARLES RUSSELL RHINES,

93-81

8 Defendant.

VOLUME II OF

9
10 PROCEEDINGS: The following matters were had before the
11 HONORABLE JOHN K. KONENKAMP, Circuit Judge at
Rapid City, South Dakota, on the 5th day of
January, 1993.

12 APPEARANCES: MR. DENNIS GROFF, MR. JAY MILLER, and.
13 MR. MARK VARGO
14 State's Attorney's Office
15 Pennington County
Rapid City, South Dakota

FOR THE STATE

16 SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

17 JUN 08 1995

18 MR. JOSEPH BUTLER
Attorney at Law
19 PO Box 2670
Rapid City, South Dakota

and

20 MR. WAYNE GILBERT
Attorney at Law
21 3202 West Main Street
Rapid City, South Dakota

and

22 MR. MICHAEL STONEFIELD
Public Defender
23 Pennington County, SD
Pennington County
24 Rapid City, South Dakota

FILED
IN THE CIRCUIT COURT

MAR 8 1993

FOR THE DEFENDANT

25 By Donna Fitzgerald, Clerk

Deputy

1 Q One other area. Do you have any particular feelings
2 about the death penalty?
3 A I kind a feel that in a case like this where it's so
4 severe, that's it's just.
5 MR. STONEFIELD: Your Honor, I move for cause on the
6 earlier answers of having formed an opinion.
7 MR. GROFF: No objection.
8 THE COURT: Mr. Cofoid, I will excuse you on this case.
9 Clerk may call in another juror.
10 You have been previously sworn and you are still
11 under oath. Defense make inquire.
12 (Prospective Juror, DELIGHT MCGRIFF, having previously
13 been sworn, testified as follows:)
14 EXAMINATION BY MR. STONEFIELD:
15 Q Tell us your name.
16 A Delight McGriff.
17 Q My name is Mike Stonefield, and I'm one of the
18 attorneys that is representing Mr. Charles Rhines.
19 Mr. Rhines is the man seated in the middle of the
20 table here and this man to his left is Mr. Butler and
21 this is Mr. Gilbert. These are the other attorneys
22 that are working on this case. You sat through the
23 procedure yesterday and had explained to you what we
24 are doing here today?
25 A Yes.

1 Q I would like to reiterate just a little bit that the
2 law allows us to ask these questions or try and get
3 to whether you have any particular knowledge or
4 biases about this case and I'm not attempting to ask
5 you anything that would be embarrassing to you or to
6 pry into your personal life or anything like that,
7 but I would appreciate your complete honesty on any
8 questions. Do you know any of the people seated here
9 in the courtroom, any of the six attorneys, the
10 defense attorney, the Judge or court reporter?
11 A No.
12 Q Did you know or do you have any knowledge of Donnivan
13 Schaeffer or his family?
14 A No.
15 Q Do you know or have any knowledge of Mr. Rhines?
16 A No.
17 Q Were you familiar with the Dig 'Em Donut business
18 here in Rapid City?
19 A No.
20 Q As I'm sure you would understand, when you filled out
21 the questionnaire that was sent to you a month or so
22 ago, it came back to us and the attorneys have had a
23 chance to read over the answers that you gave us.
24 I'd like to ask you a few things about you, yourself.
25 You have three children, is that right?

1 A Yes.

2 Q Have you lived in this area for a long time?

3 A Yeah. I lived in Colorado for about three years,

4 three years ago, but I lived in Rapid City since I

5 was about 19.

6 Q Did you go to school here?

7 A No, I went to school in Louisiana.

8 Q You are working here now at two different jobs, is

9 that right?

10 A Yes.

11 Q Are your children still living around this area?

12 A Two of them and I have one that lives in California.

13 Q Did they all grow up and go to school here too?

14 A Yes.

15 Q Do you have any other family around these parts?

16 A No -- I have two daughters here in Rapid.

17 Q Other than your children?

18 A No.

19 Q The jobs you worked at you have been there, at one of

20 them you have been there for three years or so?

21 A Yes.

22 Q Could you tell us, are there jobs you have had other

23 places you have worked?

24 A Mainly I work for gold companies here in Rapid.

25 Q What kind of work have you done?

2

1 A Everything associated with making Black Hills gold.
2 Q Has that's been for a good part of your adult life
3 you have done that?
4 A Yes.
5 Q Do you know anything in particular about this case,
6 what this case is about?
7 A The only thing I know is what I read in the paper
8 that the kid was killed at the donut shop and they
9 had picked up someone, but that's all I know about
10 it.
11 Q How often would you say that you have read articles
12 about the case; regularly?
13 A No, because I don't get to read the newspaper a lot.
14 Q When would you say that you have read or heard
15 something -- what would be the last thing that you
16 have read or heard about this case?
17 A Right when it happened.
18 Q Back several months ago?
19 A Yes.
20 Q So, it would be fair to say that you haven't followed
21 it regularly in the media?
22 A No.
23 Q Have you ever talked about it with anybody?
24 A No, not really. I don't have a lot of time to -- it
25 might have been brought up at the time we read it in

1 the paper and we felt bad about it, but other than
2 that...
3 Q Do you know, do you remember reading anything
4 recently about it or hearing anything recently about
5 the incident or this trial?
6 A The only thing I heard last night said on the news
7 that the trial was coming up and that's all they
8 said.
9 Q So you were listening to the news about this last
10 night?
11 A Just for a few minutes at work.
12 Q Over the period of months, how many times would you
13 estimate that you read or heard something about the
14 case?
15 A That was the first time last night that I heard
16 anything.
17 Q For a long time?
18 A Yeah.
19 Q When you got the notice a month or so ago and got
20 this questionnaire that you'd be called as a juror in
21 this case, did you talk to anybody about it at that
22 point?
23 A At my job I told them it could be a possibility and
24 that was it.
25 Q Just job-related and no other context?

1 A Right.

2 Q Would you say that from what you have heard or been
3 made aware of over the months, have you formed any
4 kind of opinion about Mr. Rhines?

5 A No, because really I haven't heard anything.

6 Q Would you say that you formed any opinion about the
7 case?

8 A No.

9 Q Any opinion about whether he's guilty or not guilty
10 of these charges?

11 A No, I haven't formed any.

12 Q Have you ever heard any opinions expressed that way
13 by anybody else that you have spoken to?

14 A No.

15 Q One of the things that was talked about yesterday
16 during the orientation was that under the law Mr.
17 Rhines is presumed to be innocent of these charges.
18 Is that something that you are familiar with; have
19 you ever heard that term before?

20 A Yes.

21 Q Is that something that you feel you can apply in this
22 case?

23 A Yes.

24 Q You can presume him to be innocent as he sits here
25 now?

1 A Yes.

2 Q Would you feel that he would have to prove himself

3 innocent?

4 A No, he would have to be proven guilty.

5 Q Would you feel that he would have to present evidence

6 on his own behalf?

7 A His attorneys do that, don't they? I don't know.

8 Q What I am getting at is, if he were to, just as a

9 hypothetical, if he were to use, to rely on his, for

10 his defense on the inability of the State to prove

11 its case, simply to argue that the State has not

12 proven its case, do you think that's something he

13 should be able to do or would you expect to hear

14 something from him, testimony or evidence from him on

15 his own behalf?

16 A Yes. You would expect to. It would depend. I'm not

17 too familiar with this sort of thing.

18 Q If the Judge were to instruct you that he has no

19 obligation to testify and that he can rely for his

20 defense on the inability of the State to prove its

21 case and if the Judge told you that that is what the

22 law is, could you follow that?

23 A Yes.

24 Q Does that seem fair to you or should he have to

25 present something?

1 A That would seem fair.

2 Q I have another question about that area. If you were
3 to sit on this case and you were to listen to
4 everything that was presented for however long it
5 took to present all the evidence and you thought to
6 yourself later on, maybe toward the end of the case
7 or while you were deliberating that I have heard
8 something else or I remember hearing something else
9 or reading something else in the media, and we didn't
10 hear anything about it in the trial, how would you
11 handle that? Would you consider those things that
12 you read or heard elsewhere or do you think you'd be
13 able to not consider them?

14 A Yes. I know we wouldn't be able to read about it and
15 I haven't really read anything about it so far, so I
16 probably wouldn't, because I don't have a lot of time
17 to read anyway.

18 Q You don't think that would be a problem because you
19 really don't have any other outside knowledge of the
20 case?

21 A No.

22 Q So, you are telling us basically that you feel that
23 you could sit here and be an impartial juror on this
24 case?

25 A Yes.

1 Q A few other general questions for you, ma'am. The
2 Judge talked yesterday at some length about the
3 length of the trial and I assume that if you were
4 required to sit for two or three weeks or something
5 like that, it wouldn't be a problem with your job or
6 your home life?
7 A No.
8 Q If it came to a point where you had to be
9 sequestered, which is basically required to stay in a
10 motel for a period of time or not go home that kind
11 of thing, would that present a problem?
12 A No.
13 Q You have not ever served as a juror before?
14 A No.
15 Q You don't have any knowledge of anybody that works in
16 law enforcement, is that right?
17 A No.
18 Q Have you ever served in the military?
19 A No.
20 MR. STONEFIELD: Your Honor, earlier this morning I had
21 our office draw up a list of the witnesses who the
22 State had given notice to us as their potential
23 witnesses and I thought rather than go through each
24 name individually if we could show the prospective
25 juror the list and see if they know anybody on it.

1 MR. GROFF: I wish to have the record reflect that first
2 of all that was not part of any pretrial matters,
3 that was just presented as a matter of convenience
4 for counsel. Despite the fact that that list is
5 there, certainly that wouldn't preclude other
6 officers that were made a part of this to appear. It
7 was just a chronological list that I wished to
8 present, so there may need to be additional questions
9 about law enforcement officers as well.

10 THE COURT: You don't have any objection to showing this
11 list, at least to the prospective jurors?

12 MR. GROFF: No. I wanted to make sure at this stage of
13 the proceedings that there was no misconception of
14 the record that we had limited the State's case to
15 just those witnesses.

16 MR. STONEFIELD: I understand that. I thought this would
17 be a time saver.

18 THE COURT: I think it is.

19 Q (By Mr. Stonefield:) Take a look at this list and
20 can you tell me if you are familiar with any of the
21 names on here and take a little bit of time to review
22 and see if any of those names seem familiar to you.

23 A No; none of them look familiar to me.

24 Q I believe you said you don't have any knowledge of
25 anybody that works in law enforcement in the Rapid

1 City area?

2 A No.

3 Q Another area I want to discuss with you briefly and

4 see if you have any feelings about this. You are

5 going to hear evidence that Mr. Rhines is gay, he's a

6 homosexual, and you are going to hear that at least a

7 couple of the people testifying in this case also are

8 gay. Does that change your feelings about this case

9 or sitting on this case in any way?

10 A No.

11 Q Do you know any gay people?

12 A Not at present, no.

13 Q Have you ever in your life?

14 A I used to work with some.

15 Q Do you have any particular feelings one way are or

16 another about the subject?

17 A It really makes me no difference.

18 Q On the questionnaire here you listed that you are not

19 a member of any particular church, is that correct?

20 A No.

21 Q Do you ever attend church?

22 A Occasionally I do.

23 Q Could you tell us what church?

24 A Four Square.

25 Q Is that in town here?

1 A Yeah. It's Assembly of God, and I have been there.
2 Q Would you say that you attend regularly?
3 A No, actually I don't. I go twice a year.
4 Q Do you consider yourself just generally to be a
5 religious person?
6 A Yeah -- well, my way of thinking, yeah.
7 Q One of the things that was discussed yesterday that
8 you probably are aware of in this case, as in any
9 case that is charged as first degree murder or
10 premeditated murder, the State has the opportunity to
11 ask the jury if they convicted the Defendant to
12 impose the death penalty. And the procedure under
13 which such a trial like this is held is different
14 than just about any other kind of a trial in this
15 State, any other criminal trial. We go through two
16 stages. We go through the first stage which is the
17 stage that happens in any criminal trial where
18 evidence is presented and a decision is made by the
19 jury as to whether the Defendant is guilty or not
20 guilty. In this particular case, should the jury
21 find Mr. Rhines to be guilty, then there is a second
22 part of the proceedings, a second trial basically at
23 which new evidence can be presented again and
24 arguments can be made to you as to what the
25 appropriate sentence would be and there are two

1 sentencing possibilities, either a life imprisonment
2 or the death sentence. What you would be required to
3 do as a juror in that second phase, if we would get
4 to it, would be to determine, first of all, whether
5 or not there are special circumstances which exist
6 concerning this case, and if you find that those
7 circumstances exist, then you have to make a second
8 determination as to whether or not the death penalty
9 is appropriate. Knowing that, knowing how this
10 procedure works, can you tell us whether you have any
11 particular feelings one way or the other about the
12 death penalty?

13 A No, I don't. I have never really thought about it a
14 lot.

15 Q Have you ever talked about it with anybody?

16 A No.

17 Q You would say basically that you are neutral on it?

18 A Yeah, I would say that.

19 Q You are saying that you feel that in certain cases
20 you could impose it?

21 A Yes.

22 Q Or you could consider imposing it?

23 A Yes.

24 Q Have you ever discussed it or heard it discussed in
25 regard to this particular case?

1 A No.

2 Q Since the time that you became aware that you might

3 be a juror in this case, have you ever thought about

4 it yourself?

5 A Well, actually -- I didn't until they brought it up

6 yesterday in Court.

7 Q You were not aware that that was a possible penalty

8 until yesterday?

9 A Probably. I just didn't think about it.

10 Q Would you say that your feeling would be such that

11 you would feel that the death penalty would be

12 appropriate for any person found guilty of a

13 premeditated murder?

14 A I think it would depend on the circumstances. It's

15 hard to say.

16 Q What type of circumstances?

17 A How violent the crime was -- I don't really know.

18 It's hard for me to say.

19 Q Do you think you'd have to wait and see what was

20 presented?

21 A Yeah.

22 Q You don't feel that it would be appropriate in every

23 case?

24 A No.

25 Q From what you have heard about or what you may know

1 about this case, have you formed any kind of opinion
2 as to whether it would be appropriate for the person
3 who committed this offense?
4 A No, I haven't formed an opinion, because I haven't
5 heard a lot about this case.
6 Q Just a couple of other things. When we talk about
7 the penalty here of death or the penalty here of life
8 imprisonment, do you have any feelings whether those
9 things really mean what they say or whether they
10 don't mean what they say, for instance, the penalty
11 of life imprisonment? Are you willing to accept, if
12 you are chosen as a juror and impose that sentence,
13 that that's what the person would serve, they
14 wouldn't be paroled out in a few years or something
15 like that?
16 A Yes.
17 Q Do you have any feelings or any kind of knowledge or
18 opinions about that idea?
19 A Not really, no.
20 Q You would be willing to agree that a sentence of life
21 imprisonment would be just that, that the person
22 would spend the rest of their life in prison?
23 A Yes.
24 Q Conversely, you would agree that a sentence of death
25 would mean just that, that a person would be

1 executed?

2 A Yes.

3 Q Kind of a general question, would you consider
4 yourself somebody who, once you have formed an
5 opinion that you think is right, that you would stick
6 to that opinion? Do you think that you are a person
7 that kind of sticks to their guns or in all honesty
8 would you say that you tend to be swayed by other
9 people's opinions?

10 A No, I form my own opinions.

11 Q And you'll stick to them?

12 A Yes.

13 Q Do you think that there's anything else that we
14 should know about you or your knowledge of this case
15 as we go through this procedure?

16 A No. I don't know really anything about this case.

17 MR. STONEFIELD: Thank you, ma'am. We would pass, your
18 Honor.

19 EXAMINATION BY MR. GROFF:

20 Q I have just a few questions for you, ma'am. You have
21 to understand that we have to both ask questions to
22 see if we can have you as a juror. From listening to
23 Judge Konenkamp yesterday and that orientation that
24 he read to you, you understood that you are a
25 prospective juror in this case of State versus

1 Charles Russell Rhines?

2 A Yes.

3 Q And from that orientation do you understand that in
4 this case the State is seeking the death penalty?

5 A No, I didn't, but now I do.

6 Q Do you understand that -- let me make this a little
7 clearer. As Mr. Stonefield just told you, this is a
8 case where if you are selected on the jury, one of
9 the 12 people on the jury, you'd first be called upon
10 to decide whether or not the Defendant was guilty or
11 not guilty, particularly of a charge of first degree
12 murder. Okay? Now, just assuming that you found him
13 guilty of that offense of first degree murder, then
14 there'd be a second stage of the trial where, after
15 hearing additional evidence, you'd decide whether or
16 not this Defendant would receive a sentence of death
17 or a sentence of life imprisonment. Do you
18 understand that?

19 A Yes.

20 Q Now, to get back to what I was telling you before,
21 whether or not you understand the State was seeking
22 the death penalty, should you get to that second
23 stage, as the attorney representing the State, I will
24 be asking you as one of the jurors to impose the
25 death penalty on the Defendant, that is, to put him

1 to the death. Do you understand that now?

2 A Yes.

3 Q Before I go any further, how do you feel about that?

4 A Well, I don't have an opinion on it now, you know.

5 Q Let me ask a couple of other questions then. Before

6 that jury in the second stage could return either a

7 sentence of death or a sentence of life imprisonment,

8 that jury would have to be unanimous; each one would

9 have to vote for the same thing; do you understand?

10 A Yes.

11 Q So, if anyone voted differently, then they couldn't

12 return a verdict one way or the other; do you

13 understand?

14 A Yes.

15 Q Do you understand why it's so important to both the

16 State and to the defense then to individually ask

17 these questions to determine whether or not the

18 jurors could actually reach a decision one way or the

19 other?

20 A Yes.

21 Q In other words, do you understand if I selected a

22 juror who in their own mind in all fairness could not

23 impose the death penalty, that in many ways in terms

24 of seeking the death penalty I'd be wasting my time

25 because I could never get a unanimous jury. Just

1 one, that's all it would take, so I have to look at
2 you as one prospective juror and decide whether or
3 not you could actually impose the death penalty if
4 the evidence and law convinced you it should, okay?
5 A Okay.
6 Q Do you have any religious, personal or moral beliefs
7 that would cause you to be opposed to the death
8 penalty?
9 A No.
10 Q You were talking with Mr. Stonefield and I believe
11 you told Mr. Stonefield that you haven't thought
12 about it much?
13 A The death penalty, no. That's not something you
14 think about, you know.
15 Q And it's something you have never spoken to your
16 friends or relatives about?
17 A It might have been brought up. I don't recall
18 anything about talking about anything like that.
19 Q Without going into specific cases or anything like
20 that that we might have heard about, never has caught
21 your attention as a point of conversation to talk
22 about the death penalty?
23 A No.
24 Q Let's think about it for a moment then. Assuming we
25 are in this courtroom and I want you to look at those

1 chairs over there and the second thing I want you to
2 look at is the Defendant, Mr. Rhines, who is at this
3 table. You see Mr. Rhines?
4 A Yes.
5 Q First thing I want to ask you is, just because he's
6 on trial here today, do you feel any sympathy for
7 him?
8 A No.
9 Q Secondly, I need to ask you, can you envision
10 yourself looking over at those chairs, being one of
11 the jurors who would come back and return a verdict
12 or sentencing verdict putting Mr. Rhines to death?
13 A Yes.
14 Q One other question along those lines. Can you
15 envision yourself, if you were polled, that is, if
16 the Judge asked each individual juror, is that your
17 sentence to put the Defendant to death, can you
18 envision yourself looking at the Judge or the
19 Defendant and saying, yes, that's my verdict; that's
20 my sentence that that man be put to death?
21 A Yes.
22 Q Now, again, how do you feel about that?
23 A Well, what I feel is like if a person is found
24 guilty, beyond a reasonable doubt, and if it's that
25 bad, I feel that that would be the right thing to do,

1 the death penalty.

2 Q Ma'am, I want to ask you a few questions a little bit
3 along the lines Mr. Stonefield was asking you. First
4 of all, just so I understand, you told Mr. Stonefield
5 I think, whether or not you would impose the death
6 penalty that it would depend upon the circumstances
7 of the case.

8 A Yes.

9 Q Now you have had a few more minutes to think about
10 this and I am going to ask you, as you have thought
11 about this sort of thing, even briefly over the years
12 the reading you have done or the conversations you
13 have had with other people, have you thought of any
14 particular type of circumstances where you thought it
15 might be appropriate?

16 A The death penalty?

17 Q Yes.

18 A Well, I have heard a lot of news last night, if it's
19 proven to be, depending on the circumstances of the
20 thing, it's hard for me -- if it was a really vicious
21 crime.

22 Q Now, you brought up something else in your responses
23 to me that I want to ask you about. You know very
24 well that this case is one where if you return a
25 verdict of guilty you are going to have to consider

1 whether or not you impose death or life. What I'm
2 curious about is this, as you know, there are two
3 stages to the trial, and the first stage is you
4 determine guilt or innocence. And this case, like
5 any other case that has to be decided, as the Judge
6 told you, it doesn't have to be to an absolute
7 certainty, but to a standard, our legal standard of
8 beyond a reasonable doubt. You heard that yesterday,
9 did you not, ma'am?
10 A Yes.
11 Q What I'm curious about is this, just because you
12 might have to face the issue of death or life in the
13 second stage, do you think you would somehow hold the
14 State of South Dakota, and particularly me the
15 prosecutor, to a higher standard of proof than just
16 proof beyond a reasonable doubt to somehow maybe
17 avoid getting to that second stage where you'd have
18 to determine death or life, or do you think you could
19 follow the instructions of the Court and just leave
20 it at a standard of proof to just beyond a reasonable
21 doubt?
22 A Yes.
23 Q You wouldn't elevate that standard to an absolute
24 certainty just because this was a death penalty case?
25 A No.

1 Q Do you know, ma'am, of anyone, I'm talking about
2 friends, relatives or acquaintances, do you know of
3 anyone who, if you came back after that second stage
4 and returned a death sentence, that someone might be
5 out there sort of who had strong opposition to death
6 sentences, who might confront you and make it
7 difficult for you after you returned such a sentence?
8 A No.
9 Q So, you feel if you did that and you felt that was
10 proper under the evidence and law, you could go out
11 without any reservation and lead your life and not
12 have to worry about any retribution or retaliation
13 from friends or acquaintances or anything like that?
14 A Yes.
15 Q Now, can you think of any reason at all why you
16 couldn't serve as a juror in this case?
17 A No.
18 MR. GROFF: That's all I have, Judge.
19 THE COURT: Thank you. All right, ma'am, you are a
20 prospective juror on this case. We are going to
21 excuse you temporarily. Do we have her phone number,
22 is that correct? We would ask that if you have not
23 heard from us by a week from today that you call the
24 Clerk's Office to check in and make sure that we have
25 your location.

1 DELIGHT MCGRIFF: Okay.
2 THE COURT: I'll repeat something I mentioned yesterday.
3 It's very important now that you not read any
4 newspaper articles or listen to any radio or watch
5 any television reports concerning this case. It's
6 very important that you not allow yourself to be
7 influenced by these outside sources of information so
8 you can hear the evidence in this courtroom and base
9 your decision on the evidence. Can you promise me
10 you'll not read any newspaper reports about this case
11 or listen to any other media reports on radio or
12 television?
13 DELIGHT MCGRIFF: Yes.
14 THE COURT: We will excuse you temporarily, so I'll let
15 you know when it's time to come back.
16 Sir, you were previously sworn and you are still
17 under oath. Counsel.
18 MR. GILBERT: Thank you.
19 (Prospective Juror RONALD HILTON, having previously been
20 sworn, testified as follows:)
21 EXAMINATION BY MR. GILBERT:
22 Q Would you begin by stating your name?
23 A My name is Ronald Hilton.
24 Q Good morning, Mr. Hilton. I'm Wayne Gilbert and
25 along with me here is Joe Butler and Mike Stonefield